

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No. 2756 of 2018

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., aggrieved by the judgment dated 26.09.2018 passed in D.V.C. Appeal No.1309 of 2017 on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad.

The facts, in issue, are as under:

The 2nd respondent herein filed D.V.C.No.131 of 2010 on the file of the III Metropolitan Magistrate, Hyderabad, claiming various reliefs against the revision petitioner/husband and others under Section 12 of the Protection of Women from Domestic Violence Act, 2005. By an order, dated 31.10.2017, the learned Magistrate, directed the revision petitioner to pay an amount of Rs.8,000/- per month to the 2nd respondent towards maintenance and alternative accommodation charges and also to pay compensation of Rs.1,00,000/- to the 2nd respondent in three instalments within three months from the date of the order. Aggrieved by the said order, the revision petitioner/husband preferred D.V.C. Appeal No.1309 of 2017 before the IV Additional Metropolitan Sessions Judge, Hyderabad. By its judgment, dated 26.09.2018, the learned Sessions Judge dismissed the appeal confirming the order passed in D.V.C.No.131 of 2010 dated 31.10.2017. Challenging the same, the present Criminal Revision Case is filed.

Heard learned Counsel for the revision petitioner/husband and the 2nd respondent/wife, who appeared as party in-person.

It has been submitted on behalf of the revision petitioner that the Courts below failed to appreciate that during the month of January, 2000, the 2nd respondent has left for Saudi Arabia against the will and wish of the revision petitioner and worked as Staff Nurse at King Qualid Hospital up to November, 2009, by deserting the revision petitioner. The revision petitioner has made several requests to the 2nd respondent to come down to India for continuing their family life, but in vain and thereafter, he has got issued a legal notice dated 18.04.2007, but there was no reply. It is also stated that the Courts below failed to appreciate that the revision petitioner filed Divorce O.P.No.1280 of 2008 before the Judge, Family Court, Ranga Reddy District at L.B.Nagar and the learned Judge allowed the same by granting a decree of divorce. Thereafter, the 2nd respondent filed a petition to set aside the decree, which was dismissed. The Courts below also failed to appreciate that the 2nd respondent filed M.C.No.75 of 2011 before the Judge, Family Court, Ranga Reddy District, seeking maintenance of Rs.15,000/- after granting divorce. The learned Judge, granted maintenance of Rs.3,000/- towards maintenance. Aggrieved by the same, the revision petitioner preferred Crl.R.C.No.408 of 2013 before this Court. By an order dated 26.02.2013, this Court granted interim stay of operation of the order dated 21.12.2012 passed in the above

Maintenance Case subject to the revision petitioner depositing 50% of the maintenance awarded by the trial Court. It is also stated that the 2nd respondent is drawing Rs.15,500/- per month. The Courts below erred in awarding maintenance and compensation only on the ground that she is working on temporary basis.

The 2nd respondent/wife, who is appearing as party-in-person, submitted that the revision petitioner is working as Section Officer in Andhra Pradesh Administrative Tribunal, Hyderabad and drawing gross salary of Rs.84,689/-, as such, the revision petitioner is having sufficient means to pay the maintenance and compensation as awarded by the trial Court as well as appellate Court and, therefore, there is no valid ground to interfere with the impugned orders of the Courts below. In support of her contention, she filed the salary certificate of the revision petitioner/husband, which was obtained under Right to Information Act.

A perusal of the Salary Certificate, which is placed on record, would show that the revision petitioner/husband is drawing total gross salary of Rs.84,689/-. Having considered the submissions made by the learned Counsel for the parties and having perused the orders of the Courts below, this Court is of the view that there is no dispute with regard to the relationship of the revision petitioner/husband with the 2nd respondent/wife. In fact, the trial Court, after considering the entire material available on record and the financial capacity of the revision petitioner/husband and also

the cost of living, came to the conclusion that the 2nd respondent/wife is entitled to maintenance and accordingly granted maintenance at the rate of Rs.8,000/- per month and also Rs.1,00,000/- towards compensation to the 2nd respondent/wife, which is fair and reasonable. The appellate Court, after re-appreciating the entire material available on record, rightly confirmed the order of the trial Court.

In the light of the above, this Court is of the view that the trial Court has given sufficient and cogent reasons in awarding the maintenance and compensation to the 2nd respondent/wife and the same was confirmed by the learned Additional Metropolitan Sessions Judge in the appeal. Hence, I do not find any illegality or perversity in the concurrent finding arrived at by the trial Court as well as the appellate Court, warranting interference by this Court by way of this revision.

Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

01-11-2019
gkv/Gsn.

JUSTICE G.SRI DEVI